

Notice of Allowability	Application No.	Applicant(s)	
	10/017,216	KAPELLER-LIBERMANN, ROSANA	
	Examiner Maryam Monshipouri	Art Unit 1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to _____.
2. The allowed claim(s) is/are 1-7, 12 and 18.
3. The drawings filed on 23 October 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/3/05
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Mr. Mario Cloutier, on 3/17/2005.

Examiner's Amendment to the Claims

In claim 1(d), line 3, after "wherein the", delete polypeptide" and substitute therefor --- fragment ---.

In claim 12(b), line 3, ", delete polypeptide has kinase activity." and substitute therefor -- - fragment has kinase activity;

the method comprising culturing the host cell of claim 5 under conditions in which the nucleic acid molecule is expressed. ---.

In claim 18, line 1, delete " a compound that selectively hybridizes with a nucleic acid" and substitute therefor --- the ---.

Examiner's Amendments to the Specification

In page 7, line 12, delete "Figure 1 depicts" and substitute therefor --- Figures 1A-1M depict ---.

In page 7, line 26, delete "Figure 3 is an" and substitute therefor --- Figures 3A-3K display ---.

The following is an **Examiner's Statement of Reasons for Allowance:**

Claims 1-7, 12 and 18 are directed to isolated nucleic acid molecules from the group consisting of : DNA molecules comprising a nucleotide sequence having at least 95% identity to those encoding a myotonic dystrophy type PK (MDPK 13245) kinase of specific amino acid composition, wherein the polypeptide encoded by said molecules has kinase activity, DNA molecules comprising fragments of at least 1400 nucleotides of nucleotide sequences encoding said MDPK kinase, wherein the polypeptides encoded by said nucleic acid molecules have kinase activity and DNA molecules encoding a fragment of a polypeptide comprising at least 1000 contiguous amino acids of said MDPK kinase wherein said fragment retains kinase activity as well as kits comprising all said DNA molecules.

Nucleotide sequences encoding said MDPK kinase are free of prior art. Further, the prior art does not teach or suggest preparing such specifically claimed sequences. Hence said DNA sequences are also non-obvious. Since said nucleotide sequences are both novel and non-obvious, DNA molecules comprising sequences having 95% identity to said novel and non-obvious nucleotide sequences capable of encoding kinase, DNA molecules comprising fragments of at least 1400 nucleotides of said novel and non-obvious nucleotide sequences, wherein the polypeptides encoded by said nucleic acid molecules have kinase activity and DNA molecules encoding a fragment of the expression product of said novel and non-obvious nucleotide sequences wherein the fragment comprises at least 1000 contiguous amino acids of said ATM kinase wherein said fragment retains kinase activity as well as kits comprising all said DNA molecules are also novel and non-obvious.

Claims 1-7, 12 and 18 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571) 272-0932. The examiner can normally be reached on 7:00 a.m to 4:30 p.m. except for alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnanthapu Achutamurthy can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 or (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Maryam Monshipouri Ph.D.

Primary Examiner